

1  
2  
3  
4  
5  
6  
7 **UNITED STATES DISTRICT COURT**  
8 **DISTRICT OF NEVADA**  
9

10 NEVADA RESORT ASSOCIATION –  
11 I.A.T.S.E. LOCAL 720 RETIREMENT  
PLAN,

12 Cross-claimant,

13 v.

14 JUDY CARMONA,

15 Cross-defendant.  
16

Case No. 2:04-CV-1310-KJD-CWH

**ORDER**

17 Presently before the Court is the Status Report (#98) of Cross-claimant Nevada Resort  
18 Association – I.A.T.S.E. Local 720 Retirement Plan (“the Plan”). The Court Clerk also docketed the  
19 status report as a Motion to Reconsider Order on Motion for Summary Judgment (#100). Cross-  
20 Defendant Judy Carmona (“Defendant”) filed an opposition (#99) to the motion to reconsider and an  
21 objection (#101) to the status report. The Plan filed a reply (#103) to the opposition and objection.  
22 Defendant also moved for attorney’s fees (#102) which the Plan opposed (#104).

23 The Court initially dismissed (#65) Plaintiff’s complaint as barred by *res judicata* and denied  
24 (#75) Cross-claimant’s motion for summary judgment on its claims for declaratory relief and  
25 dismissed those claims. Those orders were appealed (#77/79). On September 17, 2008, the Ninth  
26 Circuit issued an opinion, Carmona v. Carmona, 544 F.3d 988 (9th Cir. 2008), *amended and*

1 *superseded on denial of rehearing en banc*, 603 F.3d 1041 (9th Cir. 2010), affirming the Court's  
2 Order (#65) that Plaintiff's claims were barred under the *Rooker-Feldman* doctrine, but reversing the  
3 Court's Order (#75) which had dismissed Cross-claimant's claims. The Ninth Circuit held:

4 "IATSE's similar argument is not barred, however. We agree with its contention that  
5 is not required to make payments of the surviving spouse benefits to Judy or to the  
6 constructive trust ordered by the Nevada family court. Under ERISA, Janis's interest  
7 in the surviving spouse benefits vested at Lupe's retirement and federal law  
8 preempted the state court orders directing the plans to change the beneficiaries and  
9 creating a constructive trust."

10 Carmona, 603 F.3d at 1062-63.

11 Accordingly, the Court grants IATSE's claims for relief and declares that it is not required to  
12 make payments of the surviving spouse benefits to Judy or the constructive trust. Federal law  
13 preempts any and all state court orders directing IATSE to change beneficiaries, make payments to or  
14 create a constructive trust.

15 Accordingly, IT IS HEREBY ORDERED that Cross-claimant's Motion to Reconsider Order  
16 on Motion for Summary Judgment (#100) is **GRANTED**;

17 IT IS FURTHER ORDERED that Cross-defendant's Motion for Attorney's Fees (#102) is  
18 **DENIED**;

19 IT IS FURTHER ORDERED that the Clerk of the Court enter **JUDGMENT** for Cross-  
20 claimant Nevada Resort Association – I.A.T.S.E. Local 720 Retirement Plan and against Cross-  
21 defendant Judy Carmona.

22 DATED this 12<sup>th</sup> day of March 2012.

23 

24 Kent J. Dawson  
25 United States District Judge  
26